



CITY OF MORGAN HILL

MEMORANDUM

To: PLANNING COMMISSION

Date: October 24, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: Proposed Redevelopment Plan Amendment Actions

RECOMMENDED ACTION

1. Review responses to Draft Program Environmental Impact Report for the Ojo de Agua Redevelopment Project Amendment and Recommend that the City Council certify the Final Program Environmental Impact Report.
2. Approve the two proposed alternative Detachment Areas both of which would reduce the existing boundaries of the Ojo de Agua Redevelopment Project Area.
3. Find that the proposed Amendment No. 4 Amending and Restating the Community Development Plan of the Ojo de Agua Community Development Project is consistent with the City of Morgan Hill General Plan.
4. Find that the proposed Amendment No. 5 to the Community Development Plan of the Ojo de Agua Community Development Project is consistent with the City of Morgan Hill General Plan.

BACKGROUND

In accordance with the requirements of the California Environmental Quality Act (CEQA), a Notice of Preparation was prepared and circulated in June 2006 with responses requested by July 10, 2006. On June 13, 2006, the Planning Commission held a scoping meeting to discuss environmental issues related to the proposed amendments to the Ojo de Agua Community Development Plan (the "Amendments"). Subsequently, on August 17, 2006, the Draft Program Environmental Impact Report was circulated for comment. On September 12, 2006, the Planning Commission reviewed the Draft Program Environmental Impact Report for the Amendments. (Most of the comments received at this meeting were directed toward the preliminary report, for which the redevelopment consultant has provided the attached response memorandum.) The review period closed on October 2, 2006. Responses to comments have been prepared and are now before the Planning Commission as part of the proposed Final EIR. (As the Draft EIR was previously distributed to Commissioners it is not included herein, but is available upon request.)

In connection with compiling the data, conducting the studies and soliciting public comments, all of which are required steps in the process to adopt a redevelopment plan amendment, it was determined to propose two separate amendments to the Agency Board and City Council. There have been three prior amendments to the plan (in 1994 and twice in 1999). The currently proposed fourth amendment which restates the entire redevelopment plan as amended would primarily (a) increase the tax increment cap by \$333 million; (b) authorize up to \$150 million in bonds to be sold to finance redevelopment projects; (c) increase the life of the redevelopment plan by three years; and (d) reduce the Project Area boundaries. The currently proposed fifth amendment would authorize for a period of 12 years the possible use of eminent domain to acquire non-residential properties located in a specified commercial corridor (generally along Monterey Road) for redevelopment purposes. All of the foregoing changes were identified in the Draft Program EIR.

ANALYSIS

As part of any redevelopment plan amendment process, State law requires that the Planning Commission review the proposed amendments to ensure that they are in conformance with the the City's General Plan. The State law also authorizes the Planning Commission to recommend Redevelopment Project Area boundaries to the Agency Board and City Council.

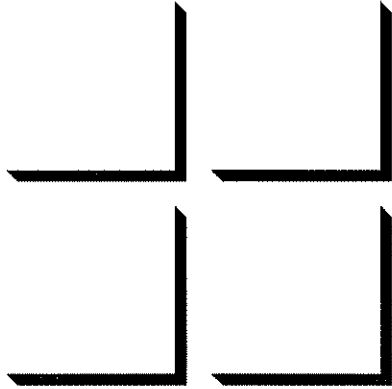
Amendment No. 4 proposes that the existing Ojo de Agua Project Area boundaries be reduced but offers the City Council two different alternatives. The first alternative would remove the Cochrane Plaza Shopping Center from the Project Area. The second alternative would leave the Cochrane Plaza Shopping center in the Project Area in case further redevelopment may be warranted due to the possible effects of the loss of a major tenant in that center and instead remove a portion of the Madrone Industrial Park from the Project Area. Both alternatives would detach an area which currently generates approximately \$300,000 to \$400,000 in tax increment.

Amendment No. 4, which restates the Redevelopment Plan as amended, states in Section 501: "The land uses permitted by this Amendment shall be those permitted by the City's General Plan and Zoning Ordinances as they now exist or may hereafter be amended." Amendment No. 5 only adds eminent domain authority to the Redevelopment Plan and does not modify Section 501.

Attachments:

Proposed Final Program EIR
Resolution


Proposed Amendment No. 4 to Ojo de Agua Community Development Project
Proposed Amendment No. 5 to Ojo de Agua Community Development Project
Responses to Planning Commission Comments on Preliminary Report



October 20, 2006

**Final Program
Environmental Impact
Report for the Ojo de Agua
Redevelopment Project
Amendment**

MORGAN HILL REDEVELOPMENT AGENCY

 GRC REDEVELOPMENT CONSULTANTS
701 S. Parker Street
Suite 7400
Orange, CA 92868

FINAL

PROGRAM ENVIRONMENTAL IMPACT REPORT

for the

Ojo de Agua Redevelopment Project Amendment

(SCH NO. 2006062035)

October 20, 2006

Prepared for:
Morgan Hill Redevelopment Agency
17555 Peak Avenue
Morgan Hill, CA 95037-4128
(408) 779-7248

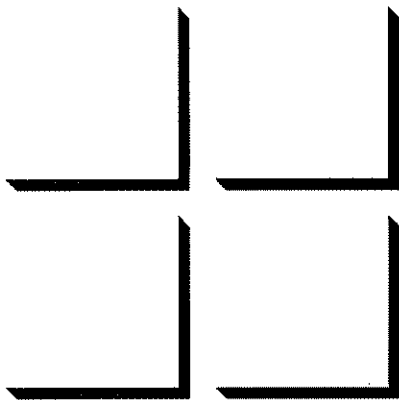
Prepared by:
GRC Redevelopment Consultants, Inc.
701 S. Parker Street, Suite 7400
Orange, CA 92868
(714) 234-1122

Final Program Environmental Impact Report for the Ojo de Agua Redevelopment Project Amendment

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I. INTRODUCTION

This document, when combined with the Draft Program Environmental Impact Report (DEIR), constitutes the Final Program EIR (FEIR) for the proposed Ojo de Agua Redevelopment Project Amendment (the "Project" or "Plan Amendment"), pursuant to Section 15132 of the State of California Environmental Quality Act Guidelines ("CEQA Guidelines").

The DEIR contains a complete description of the proposed Project, a description of existing environmental conditions in the Ojo de Agua Redevelopment Project Amendment Area ("the Amended Project Area"), a discussion of the Project's potential environmental effects, and mitigation measures to reduce or eliminate adverse impacts. The DEIR was circulated for public review and comment between from August 21, 2006 through October 4, 2006.

This FEIR document contains the following components:

1. Comments received on the DEIR and responses to those comments;
2. Revisions to the text of the DEIR;
3. Discussion of alternatives for reducing the Project Area boundaries; and,
4. Mitigation Monitoring Report.

Comments on the DEIR were received from six public agencies. These comments together with the City's responses to those comments are provided in the following pages.

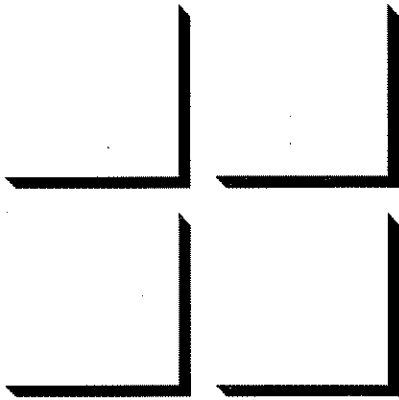
Only one comment warranted a minor revision to the text of the DEIR. The revision is not considered to be significant in that the impact and



mitigation related to the revision do not change. Recirculation of the DEIR is therefore not required.

In connection with compiling the data, conducting the studies and soliciting public comments, all of which are required steps in the process to adopt a redevelopment plan amendment, it was determined to propose two separate amendments to the Agency Board and City Council. There have been three prior amendments to the plan (in 1994 and twice in 1999). The currently proposed fourth amendment which restates the entire redevelopment plan as amended would primarily (a) increase the tax increment cap by \$333 million; (b) authorize up to \$150 million in bonds to be sold to finance redevelopment projects; (c) increase the life of the redevelopment plan by three years; and (d) reduce the Project Area boundaries. The currently proposed fifth amendment would authorize for a period of 12 years the possible use of eminent domain to acquire non-residential properties located in a specified commercial corridor (generally along Monterey Road) for redevelopment purposes. Although all of the foregoing changes were identified in the Draft Program EIR, Amendment No. 4 proposes two different alternatives for reducing the Project Area boundaries. This FEIR examines both alternatives and confirms that each will have substantially the same impacts as analyzed in the DEIR.

Also contained in this FEIR is the mitigation monitoring and reporting program for the Project.



II. RESPONSES TO COMMENTS

The comment letters and responses to the comments are included in this section. Each comment letter is provided, then a reiteration of the relevant comment *[italicized]*, and a response to the relevant comment.

Comments on the DEIR were received from the following six public agencies:

1. State of California Public Utilities Commission
2. County of Santa Clara Roads and Airports Department
3. Department of Transportation
4. Santa Clara Valley Transportation Authority
5. County of Santa Clara Department of Planning and Development.
6. State Clearinghouse and Planning Unit.

Additionally, on September 12, 2006, the Planning Commission held a public hearing to receive comments on the DEIR. Most of the comments received addressed the preliminary report. This section addresses only those comments aimed at the DEIR. The minutes from the meeting, as well as the responses to relevant comments are included after the above-referenced letters.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



August 25, 2006

PLANNING DEPT.
AUG 29 2006
CITY OF MORGAN HILL

Kathleen Previsich
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Dear Ms. Previsich:

Re: SCH #2006062035; Ojo de Agua Redevelopment Plan Amendment

As the state agency responsible for rail safety within California, we recommend that any development projects planned adjacent to or near the rail corridor in the County be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way.

Safety factors to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade highway-rail crossings due to increase in traffic volumes and appropriate fencing to limit the access of trespassers onto the railroad right-of-way.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

If you have any questions in this matter, please call me at (415) 703-2795.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin Boles".

Kevin Boles
Utilities Engineer
Rail Crossings Engineering Section
Consumer Protection and Safety Division

cc: Pat Kerr, UP

Commenter:

State of California Public Utilities Commission; Kevin Boles, Utilities Engineer; in a letter dated August 25, 2006.

Comment #1:

As the state agency responsible for rail safety within California, we recommend that any development projects planned adjacent to or near the rail corridor in the County be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns destinations with respect to railroad right-of-way.

Safety factors to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade highway-rail crossings due to increase in traffic volumes and appropriate fencing to limit the access of trespassers onto the railroad right-of-way.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

Response to Comment #1:

The comment is acknowledged. As indicated in the Preface section of the DEIR (pages vii to viii), this Program EIR uses "tiering" as authorized by CEQA Guidelines Section 15152. This EIR is tiered from the City of Morgan Hill's General Plan Master EIR, which was certified in July 2001. Tiering is appropriate when the sequence of analysis is from an EIR prepared for a General Plan, to an EIR such as this Program EIR, which is a program of lesser scope. The next tier of environmental analysis will be for site-specific projects, which will occur at the time a project is proposed and will contain a more specific level of detail, reflective of the specificity that is available once implementation projects are identified and described. It is at this point in the process when the commenter's issues will be addressed.

It should also be noted that the Circulation Element of the General Plan identifies grade separations for major thoroughfares such as East Dunne Avenue and Watsonville Road extension. Policy 3i of the Circulation Element indicates that the City will plan for the construction of grade-separated crossings of the Union Pacific railroad to improve emergency vehicle response times, and minimize conflicts between railroad trains and on-road vehicles. Grade separated crossings are encouraged at the following locations:

- Dunne Avenue,
- The future easterly extension of Watsonville Road, and
- North of Cochrane Road (study possible locations for this third crossing)

Additionally, Action 3.11 of the Circulation Element requires parcels within 400 feet of each side of the Union Pacific Railroad right-of-way and adjacent to arterial streets to develop in a manner that minimizes interference with future grade separations of the railroad tracks and the arterial street.

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400

PLANNING DEPT.

OCT 09 2006

CITY OF MORGAN HILL



September 25, 2006

Mr. Ernest Glover
GRC Redevelopment Consultants, Inc.
701 South Parker Street, Suite 7400
Orange, Ca 92868Subject: Notice of Completion of a Draft Environmental Impact Report (DEIR) for Ojo De Agua
Redevelopment Project Amendment
State Clearinghouse #:2006062035


Dear Mr. Glover,

Your August 18, 2006 Memo along with the attachments for the subject project have been reviewed.
Our comments are as follows:

1. The Redevelopment Project should recognize South County Circulation Study (SCCS) and identify how this study results relate to the project. For ex. Mitigation Measure #1 on page 47 of DEIR should identify SCCS recommendations such as potential projects to be funded with impact fees.
2. Within the project area are two significant sub regional north-south arterials: Buterfield and Santa Teresa/ Hale. Both arterials have unfinished segments and alignments that need formal adoption. We encourage the City to take action on the formal adoption of those alignments to preserve the right-of-way needed to allow future roadway implementation.

Thank you for the opportunity to review and comment on this project. If you have any questions, please contact me at 573-2464.

Sincerely,


Raluca Nitescu
Project EngineerCc: Morgan Hill Redevelopment Agency
DEC, MA, RS, WRL, File

Commenter:

County of Santa Clara Roads and Airports Department; Raluca Nitescu, Project Engineer; in a letter dated September 25, 2006.

Comment #1:

The Redevelopment Agency should recognize the South County Circulation Study (SCCS) and identify how this study results relate to the project. For ex. Mitigation Measure #1 on page 47 of DEIR should identify SCCS recommendations such as potential projects to be funded with impact fees.

Response to Comment #1:

Page 47 of the DEIR recognizes the SCCS, which is currently being prepared by the VTA with participation by South County agencies. The study will not be complete until May 2007. . To date, there is not an impact fee program in place to fund regional transportation improvements, nor is there any guarantee that such a program will be adopted in conjunction with the SCCS. According to State Law, an impact fee program needs to be in place, before fees can be collected. Policy 2b of the Circulation Element of the General Plan, however, indicates that the City will work with the County and other agencies to plan and develop an effective sub-regional long-range transportation system to link Morgan Hill with areas to the north and south without promoting congestion. Absent a regional transportation impact fee program, it is based on this policy that Mitigation Measure #1 was developed.

Comment #2:

Within the project area are two significant sub regional north-south arterials: Butterfield and Santa Teresa/Hale. Both arterials have unfinished segments and alignments that need formal adoptions. We encourage the City to take action on the formal adoption of those alignments to preserve the right-of-way needed to allow future roadway implementation.

Response to Comment #2

The comment is acknowledged. The extension/completion of Butterfield Boulevard and Santa Teresa/Hale arterials are both mapped in the Circulation Element of the General Plan, while Policies 4a-4c require that these arterials be built in the locations shown on the circulation map. To that extent, the general alignments have been formally adopted by the City Council. Consistent with the General Plan, rights-of-way will be acquired in conjunction with future development. Further, a plan line was adopted by both the City and the County in 1964 for the portion of the Santa Teresa road alignment in the City Limits. Due to development patterns that have occurred since adoption of that plan line over 50 years ago, the City will be revisiting its precise alignment. Funds are included in the current

five year Capital Improvement Program to establish the Butterfield Boulevard plan line, as well as to revisit the Santa Teresa/Hale plan line.

DEPARTMENT OF TRANSPORTATION

P. O. BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444
(510) 286-4454 TDD



*Flex your power!
Be energy efficient!*

September 27, 2006

PLANNING DEPT.

OCT 04 2006

CITY OF MORGAN HILL

SCL-GEN
SCL000181
SCH20060620035

Ms. Kathleen Molloy Previsich
Morgan Hill Redevelopment Agency
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Dear Ms. Molloy Previsich:

Ojo De Agua Redevelopment Project Amendment – Draft Environmental Impact Report (DEIR)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the DEIR and have the following comments to offer.

Highway Operations

- 1.) Conclusion, page 47, 3rd paragraph: The document states..."this EIR, as did the General Plan Master EIR, projects that level of service (LOS) on Highway 101 will be adequate and meet city standards for the planning period of this Amended Redevelopment Plan". This assumption is inaccurate as northbound US-101 in the morning peak period between Dunne Avenue and Tennant Avenue is currently at LOS F. Any additional traffic generated from this redevelopment plan and related future projects to this section of US-101 would need to be mitigated. Any required roadway improvements should be completed prior to issuance of the Certificate of Occupancy.

Should you require further information or have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: Scott Morgan, State Clearinghouse

Commenter:

Department of Transportation; Timothy C. Sable, District Branch Chief; in a letter dated September 26, 2006.

Comment #1:

Conclusion, page 47, 3^d paragraph: The document states... "this EIR, as did the General Plan Master EIR, projects that level of service (LOS) on Highway 101 will be adequate and meet city standards for the planning period of this Amended Redevelopment Plan". This assumption is inaccurate as northbound US-101 in the morning peak period between Dunne Avenue and Tennant Avenue is currently at LOS F. Any additional traffic generated from this redevelopment plan and related future projects to this section of US-101 would need to be mitigated. Any required roadway improvements should be completed prior to issuance of the Certificate of Occupancy.

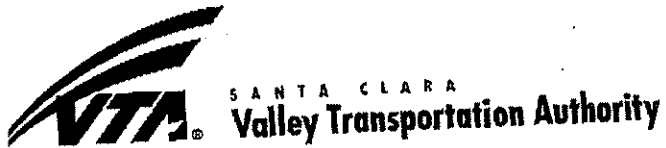
Response to Comment #1:

The correction has been made to the text in Section III of this FEIR. As this EIR is tiered off the General Plan EIR, which approaches regional traffic impact mitigation by being supportive of mechanisms that would establish a regional approach to ensuring that development projects are required to fund their fair share, the conclusions reached in this EIR with respect to impact and mitigation do not change. To the extent that a regional transportation impact fee program is in place at the time a project is proposed, a fair share contribution toward its impact will be paid.

09/28/2006 14:55 4083 787

ENVIRON ANAL' 5

PAGE 02



September 28, 2006

PLANNING DEPT.

SEP 28 2006

CITY OF MORGAN HILL

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Attention: Development Review Committee

Subject: Oja de Agua Redevelopment Area

Dear Sir or Madam:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR to detach 492 acres from the redevelopment area located south of Burnett, east of DeWitt. We have no comments at this time.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

Roy Molseed
Senior Environmental Planner

RM:kh

Commenter:

Santa Clara Valley Transportation Authority; Roy Molseed, Senior Environmental Planner; in a letter dated September 28, 2006.

This letter does not require a response.

10/06/06 FRI 09:07 FAX 4 293 1051

COEX RECEPTION

003

County of Santa ClaraDepartment of Planning and Development
Planning OfficeCounty Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org

PLANNING DEPT.

OCT 09 2006

CITY OF MORGAN HILL



October 5, 2006

Mr. Ernest Glover,
GRC Redevelopment Consultants Inc.,
701 Parker Street, Suite 7400
Orange, CA 92868Subject: Comments on the Draft Environmental Impact Report for the Ojo de
Agua Redevelopment Project Amendment (SCH# 2006062035), Morgan Hill, CA

Dear Mr. Glover,

We have received and reviewed the Draft EIR dated August 17, 2006 and do not have
any comments regarding the content and adequacy of the document.Thank you for providing this opportunity to review and provide comments on the Draft
EIR. should you have any questions, please feel free to contact me at (408) 299-5792.

Sincerely,

Rob Eastwood
Senior Planner, AICP
County of Santa Clara Planning OfficeCc:
Sylvia Gallegos, Office of the County Executive

Commenter: County of Santa Clara Department of Planning and Development; Rob Eastwood, AICP, Senior Planner; in a letter dated October 5, 2006

This letter does not require a response.



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Sean Walsh
Director

October 5, 2006

Kathleen Molloy Previsich
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

PLANNING DEPT.
OCT 16 2006
CITY OF MORGAN HILL

Subject: Ojo de Agua Redevelopment Project Amendment
SCH#: 2006062035

Dear Kathleen Molloy Previsich:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on October 4, 2006, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures

cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2006062035
Project Title Ojo de Agua Redevelopment Project Amendment
Lead Agency Morgan Hill, City of

Type EIR Draft EIR
Description The proposed Plan Amendment involves the amendment of the Agency's existing Community Development Plan of the Ojo de Agua Community Development Project to detach territory, increase the Agency's authorized tax increment cap, reauthorize Agency bonding authority, increase the total bond limit for the Redevelopment Project, and reauthorize eminent domain authority on non-residentially occupied properties. The Plan Amendment does not itself implement specific land development. Through the amendment, mechanisms and tools for addressing blight will remain available.

Lead Agency Contact

Name Kathleen Molloy Previsich
Agency City of Morgan Hill
Phone (408) 779-7248 **Fax**
email
Address 17555 Peak Avenue
City Morgan Hill **State** CA **Zip** 95037-4128

Project Location

County Santa Clara
City Morgan Hill
Region
Cross Streets South of Burnett, west of Juan Hernandez St, north of Fisher, and east of De Witt
Parcel No. Various
Township **Range** **Section** **Base**

Proximity to:

Highways 101
Airports
Railways UPRR
Waterways Coyote Creek, Llagas Creek
Schools Numerous
Land Use Residential, Commercial, Industrial, Public

Project Issues Public Services; Sewer Capacity; Solid Waste; Traffic/Circulation; Water Quality; Water Supply

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 2; Department of Parks and Recreation; Native American Heritage Commission; Department of Housing and Community Development; Office of Historic Preservation; Department of Health Services; Department of Fish and Game, Region 3; Department of Water Resources; Department of Conservation; California Highway Patrol; Caltrans, District 4; Department of Toxic Substances Control

Date Received 08/21/2006 **Start of Review** 08/21/2006 **End of Review** 10/04/2006

Commenter: State Clearinghouse and Planning Unit, October 5, 2006, Terry Roberts,
Director; in a letter dated October 5, 2006

This letter does not require a response.

FINAL MINUTES OF THE SEPTEMBER 12, 2006 PLANNING COMMISSION MEETING

6) ENVIRONMENTAL ASSESSMENT, EA-06-25: OJO DE AGUA REDEVELOPMENT PROJECT AMENDMENT-CITY OF MORGAN HILL: Draft Program Environmental Impact Report (EIR) for the Ojo de Agua Redevelopment Project Amendment.

CDD Molloy Previsich presented the staff report. Commissioner Mueller asked staff about the preliminary report, page 8, under project description; it refers to downtown as being the social and commercial center of the community. Commissioner Mueller stated he has a problem with the description when we have a million square feet of commercial along 101/Cochrane Road. He would like to see this worded differently. Chair Benich confirmed with CDD Molloy Previsich that the purpose of the hearing tonight is for the Commission to provide comments on the Draft EIR. The preliminary report that Commissioner Mueller is referring to is not something that the Planning Commission approves, it has been forwarded to the Commission as background information.

Chair Benich opened the hearing for public comment.

Mr. Ernie Glover, a representative from GRC Redevelopment Consultants stated the preliminary report is intended as an informational document justifying the proposal made by the agency to the county, school districts, etc. However, it is valuable for other stakeholders to review.

Ms. Eva Docovich, owner of four adjoining parcels on East Third Street, requested that as stakeholders of the item before the Commission, they be invited to attend any future meetings regarding this agenda item. Most of her concern center on inclusion of eminent domain and definitions of blight, rather than the EIR report specifically.

Chair Benich closed public comment.

Commissioner discussion followed.

Commissioner Lyle asked about page 1 and elsewhere in the document it states reestablish eminent domain authority only on certain commercial corridors for non-residential...BAHSD Toy advised there is a map that identifies certain commercial corridors. In essence, the map refers to properties along the entire Monterey corridor and the downtown area (Depot, Del Monte, Main, and Dunne). Commissioner Lyle expressed his concern with an example of a residential property surrounded by commercial properties, eminent domain for that area would be important. BAHSD Toy stated that the reason for the limitation is because if residential properties were included then a project area committee would have to review this plan amendment. Commissioner Koepp-Baker asked BAHSD Toy about the narrative that calls out residential non-owner occupied, is there a distinguishing characteristic in that category. BAHSD Toy advised that if a

property is occupied and/or residential it is not eligible. Commissioner Mueller stated that the EIR is missing financial data and the impact to the general fund. CDD Molloy Previsich advised that usually is not included in a CEQA Environmental Impact Report. Mr. Glover stated that the Redevelopment law

Comment: #1

allows for the interjection of these types of issues in the Report to City Council. Commissioner Mueller expressed his concern about the mitigation that commits RDA to support funding on a proportionate basis regional transportation. This could potentially open us up to every County and State agency walking on part of our RDA money to fund anything they can relatively closely be associated to the City. He's not sure why we would expose ourselves to this possibility. CDD Molloy Previsich advised it is intended to address cumulative traffic impacts to the region as an impact fee, but perhaps just Mitigation #2 would suffice, which also addresses that impact. Mr. Glover stated point well taken and they'll look at it (Mitigation #1 Traffic). Commissioner Lyle asked about page 23, it states a plan effective date, what does this mean? Mr. Glover advised this is the period of time which the powers of the RDA are in effect, after this time all an agency can do is implement its low/moderate income housing program and pay off debt. Essentially it goes out of business. Commissioner Lyle commented on the table on page 24, he stated some of the information presented in the report is not justified by the financial analysis that was performed. Commissioner Lyle stated he is lobbying for additional changes to be made to the financials based upon comments he sent in. Commissioner Davenport expressed his concern with the whole eminent domain issue. Mr. Glover explained if property is sold under threat of eminent domain, the seller gets an extra two years to reinvest capital gains if it's commercial reinvestment; in addition, the seller is allowed to carry their old tax base forward to another property or up to 125 percent of that. Mr. Glover advised in California blight must be present in order to justify the use of eminent domain. Commissioner Lyle stated that the term blighted in the financials is not physical blight, its absentee owners, vacancy rates, etc. Chair Benich requested a new map of blighted conditions; removing all properties that are considered blight due to the threat of flooding.

Comment: #2

Commenter: Joseph Mueller, Planning Commissioner.

Comment #1:

The EIR is missing financial data and the impact to the general fund.

Response to Comment #1:

According to Section 15121(a) of the CEQA Guidelines, an EIR is an informational document which will inform public agency decisionmakers and the public generally of the significant environmental effects of a project. CEQA does not require financial analyses, though this type of information is certainly appropriate to review as part of the Plan Amendment itself.

Comment #2

Commissioner Mueller expressed concern about the mitigation that commits RDA to support funding on a proportionate basis for regional transportation. This could possibly open up the City to every County and State agency walking on part of our RDA money to fund anything that can relatively closely be associated to the City. He's not sure why we would expose ourselves to this possibility.

Response to Comment #2

Commissioner Mueller's reference is to Mitigation Measure #1. Policy 2b of the Circulation Element of the General Plan indicates that the City will work with the County and other agencies to plan and develop an effective sub-regional long-range transportation system to link Morgan Hill with areas to the north and south without promoting congestion. Mitigation Measure #1 was based, in part, on this General Plan Policy. While there is no guarantee that an impact fee program will ultimately be implemented to fund necessary regional transportation improvements, Mitigation Measure #1 simply commits the city RDA to being supportive of this approach. If such a program is adopted, the mitigation measure does not require impact fees to come from RDA funds. Fees could, for instance, be paid by a private developer. Any fees paid toward cumulative regional traffic impacts would represent the project's fair share as determined through a traffic study and/or the impact fee program itself, which is an accepted method of mitigating a project's cumulative impacts.

III. REVISIONS TO THE TEXT OF THE EIR

Page #

47 Section 5.2.3

REVISE the third paragraph to read:

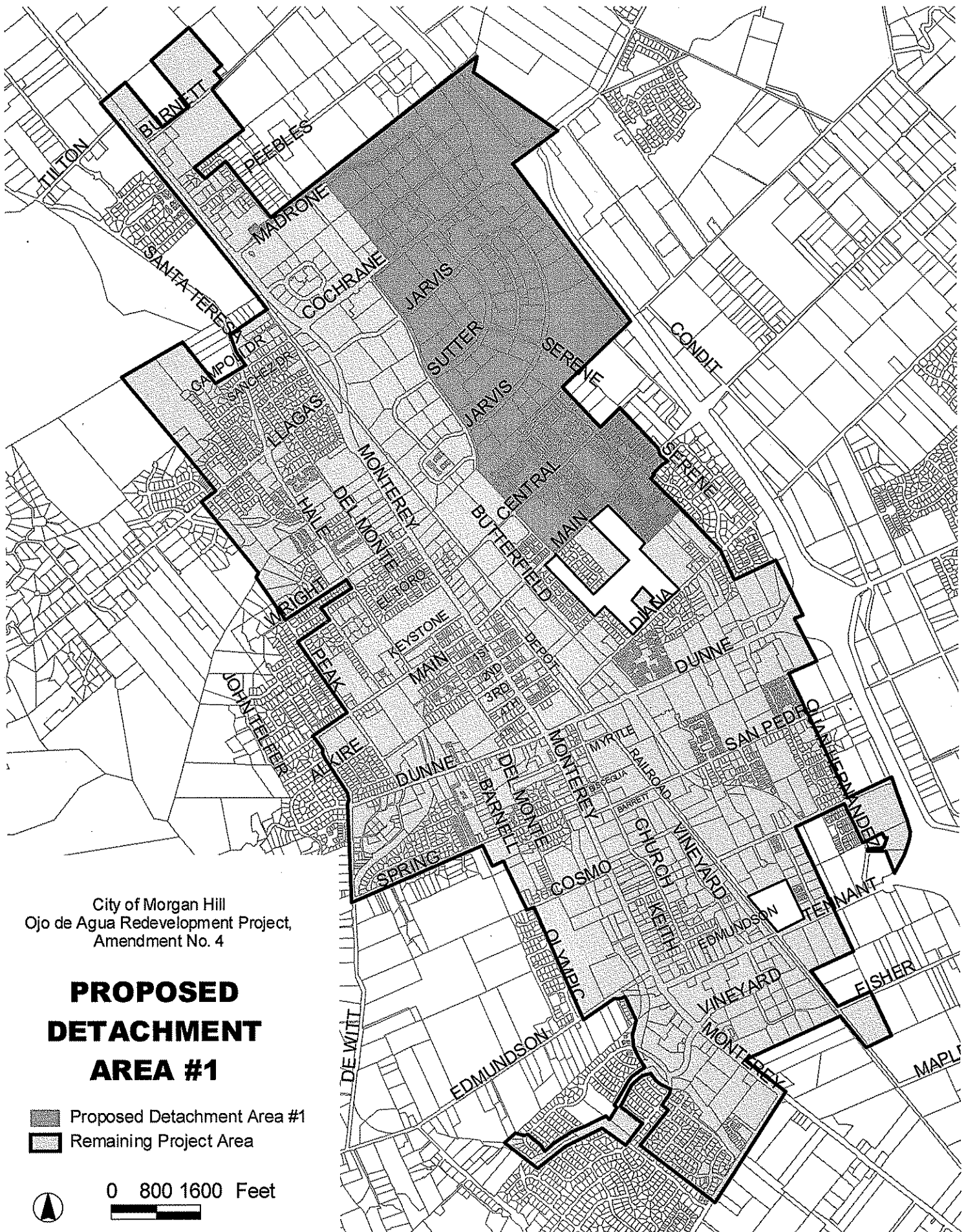
It is important to indicate that there ~~may be~~ is a timing factor with respect to when planned street and highway projects are actually constructed. For instance, northbound US-101 between Dunne Avenue and Tennant Avenue currently operates at LOS F during the AM peak hour. While the widening of Highway 101 to 8 lanes is a project included in the Regional Transportation Improvement Plan, ~~it is possible that State funding will~~ is not be currently available ~~at a time that exactly matches when the project is needed.~~ If the highway is not widened, that could lead to levels of service on the Highway and at Project Area and city intersections that do not meet city standards to fund that improvement which would address the unacceptable AM peak hour LOS. At this writing, it would be speculative to assume that the State Regional Transportation Improvement Plan would not be implemented as adopted. Therefore, this EIR, as did the General Plan Master EIR, projects that level of service on Highway 101 will be adequate and meet city standards for the planning period of this Amended Redevelopment Plan.

IV. ALTERNATIVES FOR REDUCING THE PROJECT AREA BOUNDARIES

As indicated in the Introduction section above, Amendment No. 4 proposes two different alternatives for reducing the Project Area boundaries. The first alternative would remove the Cochrane Plaza Shopping Center from the Project Area. The second alternative would leave the Cochrane Plaza Shopping center in the Project Area in case further redevelopment may be warranted due to the possible effects of the loss of a major tenant in that center and instead remove a portion of the Madrone Industrial Park from the Project Area. Maps of each alternative are included on the following pages.

Adoption of either alternative by the City Council will each will have substantially the same impacts as analyzed in the DEIR for the following reasons:

- Each option provides detachment area that is fairly similar in size.
- This conclusions reached in this EIR analysis are largely based on the 2001 General Plan Master EIR, which anticipates impacts and necessary mitigation measures that result from reasonable forecasts of growth and development in accordance with the city's 2001 General Plan. Future development will occur in accordance with the General Plan under either alternative.

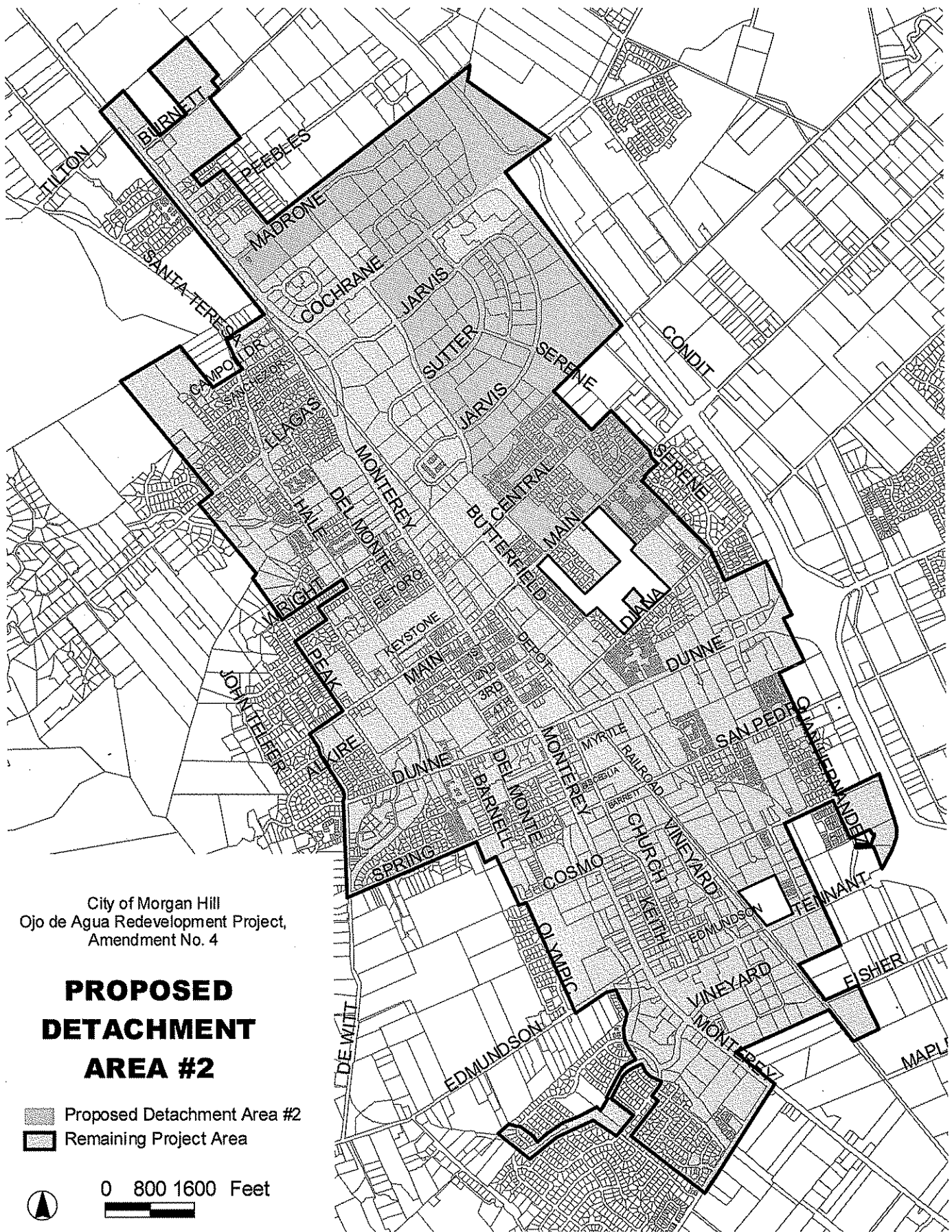


City of Morgan Hill
Ojo de Agua Redevelopment Project,
Amendment No. 4

**PROPOSED
DETACHMENT
AREA #1**

- Proposed Detachment Area #1
- Remaining Project Area





City of Morgan Hill
Ojo de Agua Redevelopment Project,
Amendment No. 4

PROPOSED DETACHMENT AREA #2

- Proposed Detachment Area #2
- Remaining Project Area



0 800 1600 Feet

IV. MORGAN HILL REDEVELOPMENT AGENCY

Ojo de Agua Redevelopment Project Amendment
(SCH NO. 2006062035)

MITIGATION MONITORING AND REPORTING PROGRAM

PROJECT NAME: Ojo de Agua Redevelopment Project Amendment

APPROVAL DATE: _____

FILE NUMBER: _____

This Program EIR uses "tiering" as authorized by CEQA Guidelines Section 15152. This EIR is tiered from the City of Morgan Hill's General Plan Master EIR, which was certified in July 2001. Tiering is appropriate when the sequence of analysis is from an EIR prepared for a General Plan, to an EIR such as this Program EIR, which is a program of lesser scope. The next tier of environmental analysis will be for site-specific projects, which will occur at the time a project is proposed and will contain a more specific level of detail, reflective of the specificity that is available once implementation projects are identified and described. Individual projects will have to be consistent with the applicable mitigation measures contained in the General Plan Master EIR, as well as the applicable mitigation measures identified herein. The following environmental mitigation measures shall be incorporated into individual development projects within the Project Area as conditions of approval, as appropriate, and as applicable pursuant to City General Plan policies, ordinance provisions and related policies. Individual project applicants shall secure a signed verification for each of the mitigation measures indicating that a mitigation measure has been complied with and implemented, and fulfills the City's environmental requirements. (Public Resources Code Section 21081.6.) Final clearance shall require all verifications included in the form.

MITIGATION MEASURE	TIMING	VERIFICATION OF COMPLIANCE	
		DEPT.:	
<p>TRAFFIC AND CIRCULATION -</p> <p><u>TRAFFIC MITIGATION MEASURE #1:</u> The Redevelopment Agency shall be supportive of mechanisms that would establish a regional approach to ensuring that development projects are required to fund appropriate fair shares of the cost of improvements to mitigate traffic impacts on regional transportation facilities.</p>	On-going.	Redevelopment Agency.	
<p><u>TRAFFIC MITIGATION MEASURE #2:</u> Approximately every 5 years, prior to adoption of the Agency's Implementation Plan, the Agency shall participate in and fund (if funding is needed) completion of a city-wide Transportation Impact Analysis in order to provide information appropriate for updates to the City's and Agency's schedule for funding and implementing transportation improvements. The Agency shall assist, as feasible, with funding improvements within the Project Area or of primary benefit to the Project Area, so that improvements are completed in a timely manner that accommodates growth and development.</p>	Approximately every 5 years, prior to adoption of the Agency's Implementation Plan.	Redevelopment Agency and/or City.	

MITIGATION MEASURE	TIMING	VERIFICATION OF COMPLIANCE	
		DEPT.:	
<p>NOISE -</p> <p><u>NOISE-1 MITIGATION MEASURE:</u> When project-specific applications are made for buildings to be located within 100 feet of the railroad tracks, vibration studies shall be conducted during environmental review. Mitigations such as building setbacks or other vibration reduction treatments should be incorporated into the project design.</p>	<p>When project-specific applications are made for buildings to be located within 100 feet of the railroad tracks.</p>	<p>Redevelopment Agency and Planning Division.</p>	

RESOLUTION NO. __-

**A RESOLUTION OF THE PLANNING
COMMISSION OF THE CITY OF MORGAN HILL
RECOMMENDING CERTIFICATION OF THE FINAL
PROGRAM ENVIRONMENTAL IMPACT REPORT FOR
THE OJO DE AGUA REDEVELOPMENT PROJECT
AMENDMENTS; APPROVING TWO PROPOSED
ALTERNATIVE DETACHMENT AREAS BOTH OF
WHICH WOULD REDUCE THE EXISTING BOUNDARIES
OF THE OJO DE AGUA COMMUNITY DEVELOPMENT
PROJECT AREA; AND FINDING THAT PROPOSED
AMENDMENT NO. 4 AND PROPOSED AMENDMENT NO.
5 TO THE OJO DE AGUA COMMUNITY DEVELOPMENT
PROJECT ARE BOTH CONSISTENT WITH THE CITY OF
MORGAN HILL GENERAL PLAN**

WHEREAS, the Planning Commission at their regular meeting of October 24, 2006, reviewed the responses to comments made to the Draft Program Environmental Impact Report for the Ojo de Agua Redevelopment Project Amendments; and

WHEREAS, the Planning Commission reviewed the two proposed alternative Detachment Areas which are part of the proposed fourth amendment to the Ojo de Agua Community Development Project; and

WHEREAS, the Planning Commission reviewed the proposed fourth and fifth amendments to the Ojo de Agua Community Development Project for consistency with the City of Morgan Hill's General Plan.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby affirms its review of the Final Program Environmental Impact Report for the Ojo de Agua Redevelopment Project Amendments, including staff responses to comments received on the Draft Program Environmental Impact Report, and is in agreement with those responses.

SECTION 2. The Planning Commission hereby recommends to the City Council and the Redevelopment Agency Board that the Final Program Environmental Impact Report for the Ojo de Agua Redevelopment project Amendments be certified as complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act.

SECTION 3. The Planning Commission hereby approves the boundaries of the Ojo de Agua

Community Development Project as it would be reduced by either of the two proposed Detachment Area maps which are attached to this Resolution.

SECTION 4. The Planning Commission finds that the proposed Amendment No. 4 Amending and Restating the Community Development Plan of the Ojo de Agua Community Development Project is consistent with the Morgan Hill General Plan.

SECTION 5. The Planning Commission finds that the proposed Amendment No. 5 to the Community Development Plan of the Ojo de Agua Community Development Project is consistent with the Morgan Hill General Plan.

PASSED AND ADOPTED THIS 24th DAY OF October, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

DRAFT

AMENDMENT NO. 4
AMENDING AND RESTATING
THE
COMMUNITY DEVELOPMENT PLAN
OF THE
OJO DE AGUA
COMMUNITY DEVELOPMENT PROJECT

Morgan Hill Redevelopment Agency

OCTOBER 8, 2006

DRAFT

**AMENDMENT NO. 4 AMENDING AND RESTATING THE
COMMUNITY DEVELOPMENT PLAN OF THE
OJO DE AGUA COMMUNITY DEVELOPMENT PROJECT**

Morgan Hill Redevelopment Agency

October 18, 2006

**AMENDMENT NO. 4 AMENDING AND RESTATING THE
COMMUNITY DEVELOPMENT PLAN OF THE
OJO DE AGUA COMMUNITY DEVELOPMENT PROJECT**

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ATTACHMENTS:

- Attachment A Map of the Amended Project Area
- Attachment B General Plan Land Use Map of the Amended Project Area
- Attachment C Legal Description of the Amended Project Area
- Attachment D List of Public Improvements, Projects and Programs

**AMENDMENT NO. 4 AMENDING AND RESTATING THE
COMMUNITY DEVELOPMENT PLAN OF THE
OJO DE AGUA PROJECT**

I. (Sec. 100) INTRODUCTION

This Amendment No. 4 ("Amendment") Amending and Restating the Community Development Plan of the Ojo De Agua Project (the "Plan") represents the efforts of the City of Morgan Hill ("City") through the Redevelopment Agency ("Agency") to fully revitalize the Project Area with particular focus on the Downtown area. Since the Plan was first adopted in 1981, the Agency has invested resources to eliminate blight throughout the Project Area by improving infrastructure, by building community facilities, by preserving historic resources, by providing affordable housing, by working to revitalize the Downtown and small businesses, and by undertaking other economic revitalization efforts. Consistent with the City's General Plan and adopted Downtown Strategy Plan, the Agency now seeks to pursue a strategy to build on those previous successes and to complete the goals set forth in this Plan.

To that end, the Agency has identified the need for an increase in the tax increment limit with a corresponding ability to sell bonds based on that revenue stream to enable a more immediate implementation of the remaining Plan programs and projects. At the same time, the Agency is reducing the original Project Area to carve out an area where redevelopment efforts have been completed.

This Amendment consists of the text (Sections 100 through 800), a map of the area comprising the Ojo de Agua Project (the "Amended Project Area") (Attachment A), the General Plan Land Use Map for the Amended Project Area as it exists as of the date of the adoption of this Amendment (Attachment B), the legal description of the Project Area (Attachment C), the "List of Public Improvements, and Projects and Programs" (Attachment D).

The Amendment has been prepared by the Agency pursuant to the Community Redevelopment Law of the California Health and Safety Code ("CCRL"), and all applicable local laws and ordinances. Pursuant to the requirements of the California Environmental Quality Act, an Environmental Impact Report was most recently prepared in connection with this Amendment and was certified on ***** **, 2006. The Amendment and Restated Plan conforms to the General Plan of the City of Morgan Hill.

Some sections of this Amendment specifically refer to and reiterate provisions of the CCRL. In the event that these statutes are amended from time to time by the state legislature to be either more or less restrictive, and such statutes would result in the Amendment being in conflict with state law, then state law shall be controlling.

A. (Sec. 101) Purposes and Objectives

The purposes and objectives of this Amendment are to prevent the recurrence of and to eliminate the remaining conditions of blight existing in the Amended Project Area. The Agency proposes to eliminate such conditions (including, without limitation, flooding and poor traffic circulation) and prevent their recurrence by: i) providing, pursuant to this Amendment, for the continued planning, development, replanning, redesign, clearance, redevelopment, reconstruction and rehabilitation of the Amended Project Area and by providing for such structures and spaces as may be appropriate or necessary in the interest of the general welfare, including, without limitation, recreational and other facilities incidental or appurtenant to them; ii) providing for the alteration, improvement, modernization, reconstruction or rehabilitation of existing structures in the Amended Project; iii) providing for open space types of uses; iv) providing for the development of public and private buildings, structures, facilities, and improvements; and, v) providing for the replanning or redesign or development of undeveloped areas.

The Agency proposes to:

1. Promote and facilitate expansion and development of new and the retention of existing commerce and businesses to, among other benefits, improve employment opportunities and economic growth within the Amended Project Area specifically and the City in general.
2. Encourage the redevelopment of the Amended Project Area through the cooperation of private enterprise and public agencies.
3. Provide public infrastructure improvements such as the installation, construction and/or reconstruction of streets, utilities, facilities, structures, flood control devices and projects, street lighting, undergrounding of overhead utility lines, sewer systems, and other improvements and actions which are necessary for the effective redevelopment of the Amended Project Area.
4. Provide for the development of community buildings and facilities which are necessary for the effective redevelopment of the Amended Project Area.
5. Upgrade and improve the Downtown so that it will continue to serve as the social and commercial center of the community.
6. When feasible, provide owner participation opportunities in conformance with the Amendment.
7. Provide for the rehabilitation of buildings and other structures, especially those buildings, structures, and sites that are of architectural and/or historic value to the City, where determined financially feasible and where the structures can and will serve a significant purpose.
8. Substantially balance the housing stock and economic base of the community.
9. Encourage the enhancement of the residential neighborhoods in the City, especially in terms of basic livability for the residents of the Amended Project Area.
10. Increase, improve and preserve the community's supply of affordable housing, and encourage housing improvement and rehabilitation, and encourage public and/or private initiatives, within the parameters of the City's Growth Management System, that preserve and enhance the supply of affordable housing throughout the Amended Project Area.
11. Provide for the minimum displacement of residential homeowners and provide relocation assistance where Agency activities result in displacement.
12. Preserve and enhance the "rural, small town" environment of Morgan Hill.

Additionally, the Agency will observe and work to fulfill the goals of the City's General Plan.

II. (Sec. 200) GENERAL DEFINITIONS

The following references, as defined, will be used generally in this Amendment unless otherwise indicated:

- A. "Agency" means the Morgan Hill Redevelopment Agency.
- B. "Agency Board" means the governing body of the Agency.

- C. "Amended Project Area" means the project area adopted by the Original Plan as shown in Attachment A less the Detachment Area shown in Attachment A.
- D. "Amendment" means this Amendment No. 4 to the Community Development Plan of the Ojo de Agua Project adopted by City Ordinance No. _____ on*****, **, 2006.
- E. "CCRL" means the California Community Redevelopment Law as it currently exists or may hereafter be amended.
- F. "City" means the City of Morgan Hill, California.
- G. "City Council" means the City Council of the City of Morgan Hill, California.
- H. "County" means the County of Santa Clara.
- I. "Family" or "family" in either its singular or plural form has the same meaning as specified in the State Relocation Guidelines, Section 6008, Definitions.
- J. "General Plan" means the General Plan of the City of Morgan Hill, as it may from time to time be amended.
- K. "Original Plan" means the Community Development Plan of the Ojo de Agua Project which was adopted by City Ordinance No. 552 on June 3, 1981.
- L. "Person" means any individual, or any public or private entity.
- M. "Planning Commission" means the Planning Commission of the City of Morgan Hill.
- N. "Project" means the Ojo De Agua Project.
- O. "Amended Project Area" means the area included within the boundaries of the Project.
- P. "Redevelopment Law" means the Community Redevelopment Law of the State of California (California Health and Safety Code, Section 33000 et seq.) and is sometimes referred to as the CCRL.
- Q. "State" means the State of California.
- R. "Tax Increments" or "tax increment" in either its singular or plural form means the funds allocated to the Agency from the Amended Project Area pursuant to CCRL Section 33670.
- S. "Zoning Ordinance" means the City of Morgan Hill Zoning Ordinance as it from time to time may be amended.

III. (Sec. 300) BOUNDARIES OF THE AMENDED PROJECT AREA

The Amended Project Area consists of all that land legally described in Attachment C hereof and is illustrated in the map contained in Attachment A, both of which are incorporated herein by this reference.

IV. (Sec. 400) PROPOSED REDEVELOPMENT LINES OF ACTION

A. (Sec. 401) General

The Agency proposes to eliminate and prevent the spread of blight in the Amended Project Area by:

1. Acquisition, installation, development, construction, reconstruction, redesign, replanning, or reuse of streets, utilities, drainage systems, flood control measures, sewer systems, curbs, gutters, sidewalks, street lighting, landscaping, and other public improvements, facilities, or other structures;
2. Acquisition and disposition of property acquired for uses in accordance with this Amendment;

3. Redevelopment of land by private enterprise or public agencies for uses in accordance with this Amendment;
4. Construction and improvement of recreational facilities, community facilities, parking facilities and other public facilities;
5. Acquisition, preservation, construction, or rehabilitation or other provision of housing for low and moderate-income families, seniors and handicapped individuals;
6. Financing, where fiscally sound, the improvement, rehabilitation (within the parameters of the City's Growth Management System), or construction of residential, commercial and industrial buildings, and the mortgage financing of residential, commercial and industrial buildings as permitted by applicable State and local laws, to increase the residential, commercial and industrial base of the City and the number of temporary and permanent jobs within the City;
7. In appropriate cases, rehabilitation of structures and improvements or development of vacant land by present owners, their successors and the Agency for uses in accordance with this Amendment;
8. Demolition or removal of buildings and improvements; site preparation;
9. Management of any property acquired under the ownership and control of the Agency; and
10. Such other action as may be permitted by law.

The above actions, when taken all together or separately as appropriate, will, among other things, continue: (i) the intensification and diversification of the existing retail, service and entertainment area surrounding Monterey Road throughout the length of Morgan Hill; (ii) the expansion of the City's employment base by encouraging new office, retail and industrial development in conformance with the General Plan; (iii) Agency efforts to unify various segments of the Amended Project Area so that they become functionally and visually one; and (iv) the furtherance of the City's housing objectives.

The Agency shall attempt to avoid any undesirable impact of project activities upon areas adjacent to the Amended Project Area and will encourage the location of public facilities in the Amended Project Area which will enhance the various neighborhoods of the Amended Project Area.

In conformance with the General Plan, the Agency will support the creation of opportunities for living close to jobs and to guide a major share of the City's future population growth in the Amended Project Area.

B. (Sec. 402) Property Acquisition

1. (Sec. 403) Acquisition of Real Property

The Agency may purchase, lease, obtain option upon or otherwise acquire any interest in real property by gift, devise, exchange, purchase, or any other means authorized by law, except through use of eminent domain.

Without the consent of the owner, the Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement unless provision for such acquisition is made in the agreement. The Agency is authorized to acquire structures without acquiring

the land upon which those structures are located. The Agency is also authorized to acquire any other interest in real property less than a fee interest.

If required by law, the Agency shall not acquire real property on which an existing building is to be continued on its present site and in its present form and use without the consent of the owner, unless (1) such building requires structural alterations, improvement, modernization, or rehabilitation, or (2) the site or lot on which the building is situated requires modification in size, shape, or use, or (3) it is necessary to impose upon such property any of the standards, restrictions and controls of the Amendment and the owner fails or refuses to participate in the Amendment by executing a participation agreement.

2. (Sec. 404) Acquisition of Personal Property

Where necessary in the implementation of this Amendment, the Agency is authorized to acquire personal property in the Amended Project Area and, to the greatest extent allowed by law, within a survey area for purpose of redevelopment, by any lawful means.

C. (Sec. 405) Participation by Owners and Tenants

1. (Sec. 406) Owner and Tenant Participation

As provided for in Sections 33339 and 33339.5 of the CCRL, the Agency shall extend a reasonable opportunity to the present owners of real property in the Amended Project Area, to participate in the redevelopment of the Amended Project Area if they otherwise meet the requirements prescribed by this Amendment and the rules governing participation promulgated by the Agency, which rules may be amended from time to time. The Agency shall further extend reasonable preference to persons who are engaged in businesses in the Amended Project Area to re-enter in business within the redeveloped area if they otherwise meet the requirements prescribed by this Amendment and the rules governing re-entry promulgated by the Agency, which rules may be amended from time to time.

The Agency desires participation in redevelopment by as many owners and business tenants as reasonably feasible. However, participation opportunities shall necessarily be subject to and limited by such factors as the expansion of public facilities; changing of land uses; realignment of streets; the ability of the Agency and/or owners to finance acquisition and redevelopment in accordance with this Amendment; development experience; and any reduction in the total number of individual parcels in the Amended Project Area.

2. (Sec. 407) Participation Agreements

The Agency may enter into a binding agreement or agreements with each person desiring to participate in redevelopment pursuant to the Amendment, by which the participant agrees to rehabilitate, develop or use the property in conformance with the Amendment and be subject to the provisions hereof and such other provisions and conditions to which the parties may agree. In the agreement, whenever it is appropriate to do so, participants who retain real property shall be required to join in the recordation of such documents as are necessary to make the provisions of this Amendment applicable to their properties. In the event that the Agency is not directly involved in the development of a particular property, a participation agreement may not be required. The determination of whether or not a participation agreement is required shall be made by the Executive Director.

In the event a participant breaches the terms of an owner participation agreement, the Agency may declare the agreement terminated and may acquire the real property or any interest therein.

Whether or not a potential participant enters into a participation agreement with the Agency, the provisions of this Amendment are applicable to all public and private property in the Amended Project Area.

3. (Sec. 408) Certificate of Conformance

As an alternative to requiring a participation agreement for each property not to be purchased, the Agency is authorized to make determinations of those properties which conform to this Amendment. If such determination is made by the Agency, the Agency may issue a Certificate of Conformance to qualifying properties. The Certificate of Conformance may include conditions as necessary or appropriate to carry out this Amendment.

D. (Sec. 409) Cooperation with Public Bodies

Certain public bodies are authorized by State law to aid and cooperate, with or without consideration, in the planning and implementation of activities authorized by this Amendment. The Agency shall seek the aid and cooperation of such public bodies and shall attempt to coordinate the implementation of this Amendment with the activities of such public bodies in order to accomplish the purposes of redevelopment and the highest public good.

Under the CCRL, the Agency is not authorized to acquire real property owned by public bodies without the consent of such public bodies. However, the Agency shall seek the cooperation of all public bodies which own or intend to acquire property in the Amended Project Area. Any public body which owns or leases property in the Amended Project Area will be afforded all the privileges of owner and tenant participation if such public body is willing to enter into a participation agreement with the Agency. All plans for development of property in the Amended Project Area by a public body shall be subject to Agency approval.

The Agency may impose on all public bodies the planning and design controls contained in and authorized by this Amendment to ensure that present uses and any future development by public bodies will conform to the requirements of this Amendment.

E. (Sec. 410) Property Management; In Lieu Payments

During such time as property, if any, in the Amended Project Area is owned by the Agency, such property shall be under the management and control of the Agency. The Agency may rent or lease, maintain, manage, operate, repair and clear real property of the Agency. The Agency may insure or provide for the insurance of any real property or personal property of the Agency pending its disposition for redevelopment. All such actions shall be pursuant to such policies as the Agency may adopt.

As provided for in CCRL Section 33401, the Agency may in any year during which it owns property in the Amended Project Area that is tax exempt pay directly to any city, county, city and county, district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon the property had it not been exempt, an amount of money in lieu of taxes that may not exceed the amount of money the public entity would have received if the property had not been tax exempt.

The Agency shall not be required to make any payments to affected taxing entities pursuant to CCRL Section 33607.5

F. (Sec. 411) Relocation of Persons Displaced by the Project

1. (Sec. 412) Relocation Housing Requirements

Except as otherwise permitted by law, no persons or families of low and moderate income shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents comparable to those at the time of their displacement. Such housing units shall be suitable to the needs of such displaced persons or families and must be decent, safe, sanitary and otherwise standard dwellings. The Agency shall not displace such person or family until such housing units are available and ready for occupancy.

Except as otherwise permitted by law, permanent housing facilities shall be made available within three years from the time occupants are displaced. Pending the development of such facilities, there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to those in the City at the time of their displacement.

2. (Sec. 413) Replacement Housing Plan

Except as otherwise permitted by law, not less than thirty days prior to the execution of an agreement for acquisition of real property, or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which agreement would lead to the destruction or removal of dwelling units from the low and moderate income housing market, the Agency shall adopt by resolution a replacement housing plan, pursuant to CCRL Section 33413.5.

To the extent required pursuant to CCRL Section 33413 the replacement housing plan shall include: (1) the general location of housing to be rehabilitated, developed or constructed pursuant to CCRL Section 33413; (2) an adequate means of financing such rehabilitation, development or construction; (3) a finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained; (4) the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation; and (5) the timetable for meeting the plan's relocation, rehabilitation and replacement housing objectives. To the extent required by law, a dwelling unit whose replacement is required by CCRL Section 33413 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low and moderate income housing market until the Agency has by resolution adopted a replacement housing plan.

Nothing in this section shall prevent the Agency from destroying or removing from the low and moderate income housing market a dwelling unit which the Agency owns and which is an immediate danger to health and safety. The Agency shall, as soon as practicable, adopt by resolution a replacement housing plan with respect to such dwelling unit.

Except as otherwise permitted by law, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low and moderate-income housing market as part of a redevelopment project which is subject to a written agreement with the Agency or where financial assistance has been provided by the Agency, the Agency shall, within four years of such destruction or removal, rehabilitate, develop, or construct, or cause to be

rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units at affordable housing costs, as defined by CCRL Section 50052.5, within the Amended Project Area or within the territorial jurisdiction of the Agency, in accordance with all of the provisions of CCRL Sections 33413 and 33413.5.

3. (Sec. 414) Assistance in Finding Other Locations

The Agency shall, to the extent required by law, assist in the relocation of all persons (including families, businesses and others) displaced by Agency acquisition of property in the Amended Project Area. The Agency intends to accomplish all redevelopment pursuant to this Amendment with as little displacement of persons from businesses or residences as is feasible. In order to carry out the Project with a minimum of hardship to persons displaced from their homes, the Agency shall assist individuals and families in finding housing that is decent, safe, sanitary, within their financial means, in reasonably convenient locations, and otherwise suitable to their needs. The Agency is also authorized to provide housing outside the Amended Project Area for displaced persons.

4. (Sec. 415) Relocation Benefits and Assistance

In accordance with the provisions of the California Relocation Assistance Act (Government Code Section 7260 et seq.), the CCRL, the guidelines adopted and promulgated by the California Department of Housing and Community Development, and the Relocation Rules, Procedures and Guidelines adopted by the Agency (the "relocation guidelines"), the Agency shall provide all relocation benefits and assistance required by law to all persons (including families, business concerns and others) displaced by Agency acquisition of property. Such relocation assistance shall be provided in the manner required by the relocation guidelines as may be amended from time to time. The Agency may provide additional benefits or payments as it may deem appropriate from available funds to implement the objectives of this Amendment and to alleviate hardship. All relocation shall be conducted in accordance with Article 9, Chapter 4 of the CCRL.

G. (Sec. 416) Demolition, Clearance, Public Improvements, Building and Site Preparation and Removal of Hazardous Waste; Graffiti Removal

1. (Sec. 417) Demolition and Clearance

The Agency may clear or move buildings, structures, or other improvements from real property as necessary to carry out the purposes of this Amendment.

2. (Sec. 418) Public Improvements

To the extent permitted and in the manner required by law, and after the Agency has identified sources of funding the operations and maintenance, the Agency is authorized to install and construct or to cause to be installed and constructed the public improvements and public utilities (within or outside the Amended Project Area) necessary or beneficial to carry out this Amendment. Such public improvements include, but are not limited to the following: parking lots or structures, over or underpasses, bridges, streets, curbs, gutters, sidewalks, street lights, sewers, storm drains, flood control, traffic signals, electrical distribution systems, flood control facilities, natural gas distribution systems, sewer distribution and sewer treatment facilities and water distribution systems, including water wells and storage tanks, landscaping, parks, community/recreational facilities such as libraries and an outdoor sports complex,

fire stations, plazas, playgrounds, and any buildings, structures or improvements necessary and convenient to the full development of any of the above. A list of possible projects is set forth in Attachment D of this Amendment.

To the greatest extent provided by law, the Agency, with the consent of the City Council, may pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure or other improvement which is publicly owned either within or outside the Amended Project Area upon the City Council making the applicable determinations required pursuant to the CCRL.

When the value of such land or the cost of the installation and construction of such building, facility, structure or other improvement, or both, has been, or will be, paid or provided for initially by the City or other public corporation, the Agency may enter into a contract with the City or other public corporation under which it agrees to reimburse the City or other public corporation for all or part of the value of such land or all or part of the cost of such building, facility, structure or other improvement, or both, by periodic payments over a period of years. Any obligation of the Agency under such contract shall constitute an indebtedness of the Agency for the purpose of carrying out this Amendment.

3. (Sec. 419) Preparation of Building Sites

The Agency may develop as a building site any real property owned or acquired by it. In connection with such development it may cause, provide or undertake or make provision with other agencies for the installation, or construction of parking facilities, streets, utilities, parks, playgrounds and other public improvements necessary for carrying out this Amendment in the Amended Project Area. The Agency may construct foundations, platforms, and other like structural forms necessary for the provision or utilization of air rights sites for buildings.

4. (Sec. 420) Removal of Hazardous Waste; Graffiti Removal

The Agency may, by following all applicable procedures provided by law, within the Amended Project Area, take any actions which the Agency determines are necessary and which are consistent with other state and federal laws to remedy or remove a release of hazardous substances on, under or from property within the Amended Project Area or to remedy or remove hazardous waste from property.

The Agency may take any actions that it determines are necessary to remove graffiti from public or private property upon making the applicable determinations required pursuant to the CCRL.

H. (Sec. 421) Rehabilitation, Conservation and Moving of Structures by the Agency; Seismic Repairs

1. (Sec. 422) Rehabilitation and Conservation

The Agency is authorized to advise, encourage, and with the consent of the owner, assist in the rehabilitation and conservation of property, buildings or structures in the Amended Project Area not owned by the Agency. The Agency is also authorized to rehabilitate and conserve, or to cause to be rehabilitated and conserved, properties, buildings or structures in the Amended Project Area owned by the Agency.

The Agency is also authorized to acquire, restore, rehabilitate, move and conserve buildings of historic or architectural significance.

It shall be the purpose of this Amendment to allow for the retention of as many existing businesses as practicable and to add to the economic life of these

businesses by a program of voluntary participation in their conservation and rehabilitation. The Agency is authorized to conduct a program of assistance and enforcement to encourage owners of property within the Amended Project Area to upgrade and maintain their property consistent with this Amendment and such standards as may be developed for the Amended Project Area by the Agency or the City.

The extent of rehabilitation and improvements in the Amended Project Area shall be subject to the discretion of the Agency based upon such factors as:

- a. The rehabilitation must be compatible with land uses as provided for in this Amendment.
- b. Rehabilitation and conservation activities must be carried out in an expeditious manner and in conformance with the requirements of this Amendment and such property rehabilitation, design and/or development standards as may be adopted by the Agency.
- c. The expansion of public improvements, facilities and utilities.
- d. The assembly and development of properties in accordance with this Amendment.

The Agency shall not assist in the rehabilitation or conservation of properties or improvements which, in its opinion, are not economically and/or structurally feasible.

2. (Sec. 423) Moving of Structures

As necessary in carrying out this Amendment, the Agency is authorized to move or to cause to be moved any standard structure or building, or any substandard structure or building which can be rehabilitated, to a location within or outside the Amended Project Area.

3. (Sec. 424) Seismic Repairs

For any project undertaken by the Agency within the Amended Project Area for building rehabilitation or alteration in construction, the Agency may, by following all applicable procedures then provided by law, take those actions which the Agency determines are necessary and which are consistent with local, state, and federal law, to provide for seismic retrofit.

I. (Sec. 425) Property Disposition and Development

1. (Sec. 426) Real Property Disposition and Development

a. (Sec. 427) General

For the purposes of this Amendment, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber or otherwise dispose of any interest in real property. Except as otherwise permitted by law, no real property acquired by the Agency in whole or in part with tax increment, or any interest therein, shall be sold or leased for development pursuant to this Amendment for an amount less than its fair market value or reuse value at the use and with the covenants, conditions and development costs authorized by the sale or lease.

In the manner required and to the extent permitted by law, the Agency is authorized to dispose of real property by negotiated leases or sales without public bidding.

Except as otherwise permitted by law, all real property acquired by the Agency in the Amended Project Area, except property conveyed by it to the City or any other public body, shall be sold or leased to persons or entities for its improvement and use in conformance with this

Amendment. Real property may be conveyed by the Agency to the City or any other public body in accordance with the CCRL without charge or for an amount less than fair market value.

The Agency shall reserve such powers and controls in the disposition and development documents as may be necessary to prevent transfer, retention, or use of property for speculative purposes and to ensure that development is carried out pursuant to this Amendment.

During the period of redevelopment in the Amended Project Area, the Agency shall ensure that the provisions of this Amendment and of other documents formulated pursuant to this Amendment are being observed, and that development in the Amended Project Area is proceeding in accordance with development documents and time schedules.

All persons acquiring property from the Agency or entering into agreements pertaining to the redevelopment or use of property shall be obligated to use the property for the purposes designated by this Amendment, to begin and complete development of the property within a period of time which the Agency fixes as reasonable, and to comply with other conditions which the Agency deems necessary to carry out the purposes of this Amendment.

Except as otherwise permitted by law, before any property of the Agency acquired in whole or in part, directly or indirectly, with tax increment monies is sold or leased for development pursuant to this Amendment, such sale, lease or other disposition shall first be approved by the City Council by resolution after a public hearing held in accordance with the provisions of CCRL Section 33433.

All development, whether public or private, must conform to this Amendment and all applicable federal, state, and local laws, including without limitation the City's planning and zoning ordinances, building, environmental and other land use development standards; and must receive the approval of all other appropriate public agencies.

b. (Sec. 428) Purchase and Development by Participants

Pursuant to the provisions of this Amendment and the rules adopted by the Agency, the Agency shall to the greatest extent feasible offer real property acquired by the Agency for disposition and development by owner participants on a preference basis over other persons.

c. (Sec. 429) Purchase and Development Documents

To provide adequate safeguards to ensure that the provisions of this Amendment will be carried out and to prevent the recurrence of blight, all real property sold, leased, or conveyed by the Agency, as well as all property subject to participation agreements, is subject to the provisions of this Amendment.

Leases, deeds, contracts, agreements and declarations of restrictions may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions subsequent, equitable servitude, or any other provision necessary to carry out this Amendment.

All property sold, leased, conveyed, or subject to a participation agreement shall be made expressly subject by appropriate documents to the restriction that all deeds, leases, or contracts for the sale, lease, sublease, or other transfer of land in the Amended Project Area shall contain such nondiscrimination and nonsegregation clauses as are

required by law, including CCRL Section 33436.

d. (Sec. 430) [Intentionally Left Blank]

2. (Sec. 431) Personal Property Disposition

The Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber, or otherwise dispose of personal property which is acquired by the Agency.

J. (Sec. 432) Provision for Low and Moderate Income Housing

1. (Sec. 433) Definition of Terms

The terms "affordable housing cost", "affordable rent", "replacement dwelling unit", "persons and families of low or moderate income" and "very low income households" as used herein shall have the meanings as defined in the CCRL, and other State and local laws and regulations pertaining thereto as amended from time to time.

2. (Sec. 434) Authority Generally

The Agency may, inside or outside the Amended Project Area, acquire land, donate land, improve sites, construct or rehabilitate structures, or take any other such actions as may be permitted by the CCRL in order to provide housing for persons and families of low or moderate income. The Agency may also provide subsidies to, or for the benefit of, such persons and families or households to assist them in obtaining housing within the City. Where feasible, the Agency will attempt to provide for housing developments which serve tenants having a broad mix of income levels.

3. (Sec. 435) Replacement Housing

Except as otherwise permitted by law, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low and moderate income housing market as part of a redevelopment project which is subject to a written agreement with the Agency or where financial assistance has been provided by the Agency, the Agency shall, within four years of such destruction or removal, rehabilitate, develop or construct, or cause to be rehabilitated, developed or constructed for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units which have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the Agency. One hundred percent (100%) of the replacement dwelling units shall replace dwelling units available at affordable housing costs in the same or a lower income level of very low income households, lower income households and persons and families of low and moderate income as the persons displaced from those destroyed or removed units. The Agency may replace destroyed or removed dwelling units housing persons and families of low or moderate income with a fewer number of replacement dwelling units if the replacement dwelling units have a greater or equal number of bedrooms and are affordable to the same income level of households as the destroyed or removed units to the extent permissible by law as it now exists or may hereafter be amended.

4. (Sec. 436) New or Rehabilitated Dwelling Units Developed Within the Amended Project Area

Except as otherwise permitted by law, at least thirty percent (30%) of all new or substantially rehabilitated dwelling units developed by the Agency shall be available at affordable housing cost to persons and families of low and moderate income; and of such thirty percent (30%), not less than fifty (50%) thereof shall be available at affordable housing cost to, and occupied by, very low income

households.

Except as otherwise permitted by law, at least fifteen percent (15%) of all new or substantially rehabilitated units developed within the Amended Project Area by public or private entities or persons other than the Agency shall be available at affordable housing cost to persons and families of low and moderate income; and of such fifteen percent (15%), not less than forty percent (40%) thereof shall be available at affordable housing cost to very low income households. Except as otherwise permitted by law, the percentage requirements set forth in this Section shall apply in the aggregate to housing developed by the Agency or developed within the Amended Project Area and not to each individual case of rehabilitation, development or construction of dwelling units.

Except as otherwise permitted by law, the Agency shall require, by contract or other appropriate means, that whenever any low and moderate income housing units are developed within the Amended Project Area, such units shall be made available on a priority basis for rent or purchase, whichever the case may be, to persons and families of low and moderate income displaced by the Project; provided, however, that failure to give such priority shall not affect the validity of title to the real property upon which such housing units have been developed.

Except as otherwise permitted by law, the Agency may cause, by regulation or agreement, to be available at affordable housing costs, to persons and families of low or moderate income or to very low income households, as applicable, two units outside the Amended Project Area for each unit that otherwise would have had to be available inside the Amended Project Area.

To satisfy percentage requirements established in this section, the Agency may purchase, or otherwise acquire or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on multifamily units that restrict the cost of renting or purchasing those units that either: (i) are not presently available at affordable housing cost to persons and families of low or very low income households, as applicable; or (ii) are units that are presently available at affordable housing cost to this same group of persons or families, but are units that the Agency finds, based upon substantial evidence, after a public hearing, cannot reasonably be expected to remain affordable to this same group of persons or families.

5. (Sec. 437) Duration of Dwelling Unit Availability

To the extent required by law, the Agency shall require that the aggregate number of dwelling units rehabilitated, developed or constructed pursuant to Sections 435 and 436 shall remain available for persons and families of low and moderate income to the extent and for the period(s) required by CCRL Sections 33334.3(f) and 33413(c). As set forth in Sections 33334.3 and 33413, "longest feasible time" includes, but is not limited to, unlimited duration. Where appropriate, the terms of affordability shall be consistent with City guidelines.

6. (Sec. 438) Relocation Housing

If insufficient suitable housing units are available in the City for use by persons and families of low and moderate income displaced by the Project, the Agency may, to the extent of that deficiency, direct or cause the development, rehabilitation or construction of housing units within the City, both inside and outside of the Amended Project Area.

7. (Sec. 439) Tax Increment Funds

Except as otherwise provided in CCRL Section 33334.2, not less than twenty percent (20%) of all taxes which are allocated to the Agency from the Amended Project Area pursuant to CCRL Section 33670 shall be used by the Agency for

the purpose of increasing, improving and preserving the City's supply of housing for persons and families of low or moderate income and very low income households in accordance with the provisions of CCRL Sections 33334.2 and 33334.3.

V. (Sec. 500) USES PERMITTED IN THE AMENDED PROJECT AREA

A. (Sec. 501) Map of the Amended Project Area

Attachment A illustrates the boundaries of the Amended Project Area. The land uses permitted by this Amendment shall be those permitted by the City's General Plan and Zoning Ordinances as they now exist or may hereafter be amended.

B. (Sec. 502) Public Uses

1. (Sec. 503) Public Rights-of-Way

The public street system in the Amended Project Area shall be developed in accordance with the General Plan of the City, as amended from time to time.

Streets may be widened, altered, abandoned, repaired, or closed as necessary for property development within the Amended Project Area.

It is contemplated that the Agency will construct, or aid in the construction of, certain streets designated in the Amendment which are not now constructed or which may require further widening or improvement. The public rights-of-way may be used for vehicular and/or pedestrian traffic, as well as for public improvements, public and private utilities, and activities typically found in public rights-of-way. In addition, all necessary easements for public uses, public facilities, and public utilities may be retained or erected.

2. (Sec. 504) Other Public Uses

Parking, open space, public and semi-public uses may be interspersed with other uses in any area.

C. (Sec. 505) Other Public, Semi-Public, Institutional and Nonprofit Uses

The Agency is authorized to permit the establishment or enlargement of public, semi-public, institutional or nonprofit uses, including park and community/recreational facilities such as an outdoor sports complex and libraries, fire stations, flood control, parking facilities, libraries, educational, fraternal, employee, philanthropic, and charitable institutions, utilities, multi-modal transit facilities, and facilities of other similar purposes, associations or organizations. All such uses shall conform to the provisions of the City's General Plan.

D. (Sec. 506) General Controls and Limitations

All real property in the Amended Project Area is hereby made subject to the controls and limitations of the City's General Plan, Zoning Ordinance and other applicable City standards. No real property shall be developed, rehabilitated, or otherwise changed after the date of the adoption of this Amendment, except in conformance with the provisions of the City's General Plan and Zoning Ordinance, and all other applicable laws and codes. The type, size, height, number, and use of buildings within the Amended Project Area shall be controlled by the Zoning Ordinance, and the General Plan, as amended from time to time.

1. (Sec. 507) New Construction

All new construction shall comply with all applicable State and local laws and regulations pertaining thereto as amended from time to time, including without limitation the Building, Electrical, Energy, Heating and Ventilating, Housing and Plumbing Codes of the City and the Zoning Ordinance, as amended from time to time. Off-street parking spaces and loading facilities shall be designated to comply with the Zoning Ordinance, as amended from time to time. The number of off-street parking spaces required shall be regulated by the Zoning Ordinance, as amended from time to time. All off-street parking spaces and loading areas shall be paved, lighted and landscaped in accordance with the Zoning Ordinance, or other applicable City regulation, as amended from time to time. In addition, additional specific performance and development standards may be adopted by the Agency to control and direct improvement activities in the Amended Project Area.

2. (Sec. 508) Rehabilitation

The Agency is authorized to rehabilitate and conserve or cause to be rehabilitated and conserved, buildings and structures in the Amended Project Area. Any existing structure within the Amended Project Area which the Agency shall approve for retention and rehabilitation shall be repaired, altered, reconstructed, or rehabilitated in such manner that it will meet the following requirements: (i) be safe and sound in all physical respects, and (ii) be attractive in appearance and not detrimental to the surrounding areas. The preservation and rehabilitation of structures of historical significance will also be considered a priority by the Agency. Property rehabilitation standards for the rehabilitation of existing buildings and site improvements may be established by the Agency.

3. (Sec. 509) Limitations on the Size, Height, and Number of Buildings

Except as set forth in other sections of this Amendment to the extent that limitations are hereby imposed, the type, size, height, and number of buildings in the Amended Project Area that may be expected upon completion of the Project may be regulated by the Agency, and shall not exceed the limitations set forth in the General Plan and the Morgan Hill Municipal Code or applicable Federal, State and local statutes, ordinances and regulations, as amended from time to time.

4. (Sec. 510) Number of Dwelling Units in the Amended Project Area

The approximate number of dwelling units currently located within the Amended Project Area is 3,820. The number of dwelling units in the Amended Project Area shall not exceed the maximum number allowed under the densities permitted under the City's General Plan, as amended from time to time and as implemented by local codes and ordinances.

5. (Sec. 511) Open Space and Landscaping

The approximate amount of open space to be provided in the Amended Project Area will be the total of all areas that will be in the public rights-of-way, the public grounds, the space around buildings, and all other outdoor areas not permitted through limits on land covered by this Amendment to be covered by buildings. Landscaping shall be developed in the Amended Project Area to ensure optimum use of living plant material in conformance with the standards of the City and of the Agency as they may be promulgated from time to time.

6. (Sec. 512) Land Coverage

Land coverage and Floor Area Ratios (FARs) permitted in the Amended Project Area shall not exceed coverages permitted by the Zoning Ordinance, as amended from time to time.

7. (Sec. 513) Light, Air and Privacy

In all areas sufficient space shall be maintained between buildings to provide adequate light, air and privacy.

8. (Sec. 514) Signs

All signs shall be subject to the provisions of the Zoning Ordinance, as amended from time to time.

9. (Sec. 515) Utilities

The Agency shall require that all utilities be placed underground when physically, legally and economically feasible.

10. (Sec. 516) Incompatible Uses

No use or structure which by reason of appearance, traffic, smoke, glare, noise, odor, or similar factors would be incompatible with the surrounding areas or structures shall be permitted in any part of the Amended Project Area.

11. (Sec. 517) [Intentionally Left Blank]

12. (Sec. 518) Nondiscrimination and Nonsegregation

There shall be no discrimination or segregation based upon race, color, creed, sex, marital status, religion, national origin, or ancestry permitted in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Amended Project Area.

13. (Sec. 519) Minor Variations

The Agency Board is authorized to permit minor variations from the limits, restrictions and controls established by this Amendment. In order to permit such variation, the Agency Board must determine that:

1. The application of certain provisions of this Amendment would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this Amendment.
2. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions and controls.
3. Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area.
4. Permitting a variation will not be contrary to the objectives of this Amendment.

In permitting any such variation, the Agency shall impose such conditions as are necessary to protect the public health, safety, and welfare, and to assure compliance with the purpose of this Amendment. Any variation permitted by the Agency hereunder shall not supersede any other approval required under City codes and ordinances.

14. (Sec. 520) Consistency with General Plan and Zoning Ordinance

All development within the Amended Project Area shall be consistent with the General Plan and Zoning Ordinance, as amended from time to time.

E. (Sec. 521) Design for Development

New improvements in the Amended Project Area shall be reviewed for consistency with the Zoning Ordinance, General Plan, building and design review standards, planning and environmental ordinances, rules, regulations and requirements, and other planning documents as may be applicable. The Agency's review and approval of development within the Amended Project Area shall be undertaken in accordance with standards, guidelines and procedures as may be adopted from time to time by the Agency.

F. (Sec. 522) Building Permits

No permit shall be issued for the construction of any new building or for any construction on an existing building in the Amended Project Area from the date of adoption of this Amendment unless the construction is in conformance with the provisions of this Amendment, and design for development standards which may have been adopted by the Agency, and the applicant is proceeding in compliance with the Zoning Ordinance, and General Plan and land use enactments promulgated pursuant thereto.

VI. (Sec. 600) METHODS FOR FINANCING THE PROJECT AND EFFECTIVENESS OF THIS AMENDMENT

A. (Sec. 601) General Description of the Proposed Financing Methods

Upon and after adoption of this Amendment by the City Council, the Agency is authorized to finance the Project with property tax increment, tax increment allocation bonds, interest income, loans from private institutions, proceeds from the sale or lease of property, financial assistance from the City, County, State of California, Federal Government, or any other public agency, or any other legally available source.

The City may, in accordance with the law, make advances and expend money as necessary to assist the Agency in carrying out this Project. Such assistance shall be on the terms established by an agreement between the City and the Agency.

As available, Gasoline Tax funds from the State and the County will be used, as appropriate, for the street system and related improvements. As available, federal loans and grants will be used to finance portions of Project costs.

The Agency is authorized to obtain advances, borrow funds, issue obligations and create indebtedness in carrying out this Amendment. The principal and interest on such advances, funds, obligations and indebtedness may be paid from Tax Increments or any other funds available to the Agency.

The Agency may issue bonds and notes to finance its activities, including bonds on which the principal and interest are payable in whole or in part from tax increments. The total outstanding principal of any bonds so issued and repayable from said tax increments shall not exceed One-Hundred and Fifty Million Dollars (\$150,000,000), except by amendment of this Plan.

B. (Sec. 602) Tax Increments

All taxes levied upon taxable property within the Amended Project Area each year by or for the benefit of the State of California, County of Santa Clara, City of Morgan Hill, any district, or other public corporation (hereinafter sometimes called "taxing agencies") shall be divided as follows:

1. That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance adopting the Original Plan shall be allocated to and when collected shall be paid to the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory of the redevelopment project on the effective date of the ordinance adopting the Original Plan but to which that territory has been annexed or otherwise included after that effective date, the assessment roll of the County last equalized on the effective date of the ordinance adopting the Original Plan shall be used in determining the assessed valuation of the taxable property in the project on said effective date).
2. Except as provided in paragraph (3), that portion of the levied taxes each year in excess of the amount described in paragraph (1) above shall be allocated to and when collected shall be paid into a special fund of the Agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the Agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed value of the taxable property in the redevelopment project exceeds the total assessed value of the taxable property in the project as shown by the last equalized assessment roll referred to in paragraph (1), above, all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid to the respective taxing agencies. When the loans, advances and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid to the respective taxing agencies as taxes on all other property are paid.
3. That portion of the taxes in excess of the amount identified in paragraph (1), above, which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This paragraph (3) shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agencies on or after January 1, 1989.

As to the Tax Increments generated within the Amended Project Area, no more than \$580,000,000, net of required payments to affected taxing entities pursuant to CCRL Section 33607.7 may be divided and allocated to the Agency without further amendment of this Amendment. For clarification only, the \$580,000,000 limit does not include payments to other taxing entities made pursuant to the CCRL such as "pass through" payments, or deposits into the County of Santa Clara Educational Revenue Augmentation Fund as may be required by the CCRL.

C. (Sec. 603) [Intentionally Left Blank]

D. (Sec. 604) Use of Tax Increment Funds

1. The portion of taxes allocated and paid to the Agency pursuant to subparagraph (2) of Section 602 are hereby irrevocably pledged to pay the principal of and interest on loans, money advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the Agency to finance or refinance, in whole or in part, the redevelopment project.
2. The Agency is authorized to make pledges as to specific advances, loans and indebtedness as appropriate in carrying out the Project subject to the limitations contained in this Amendment.

E. (Sec. 605) General Provisions

Notwithstanding any other provision of this Amendment, and except as provided in CCRL Section 33333.6(g) and (h), and except for any other authority in excess of the following limits that may from time to time be granted by statute (which authority shall be deemed to be incorporated into the provisions of the Amendment by reference and shall supersede the following limits):

1. Except for the nondiscrimination and nonsegregation provisions which shall run in perpetuity, the effectiveness of the Amendment (including, without limitation, the effectiveness of the Agency's land use controls under the Amendment) shall terminate on June 3, 2024, pursuant to CRL Sections 33333.6(a) as extended pursuant to CRL Section 33333.6(e)(2)(D). After the time limit on the effectiveness of the Amendment, the Agency shall have no authority to act pursuant to the Amendment except to pay previously incurred indebtedness and to enforce existing covenants, contracts, or other obligations.
2. The Agency shall not pay indebtedness or receive property taxes from the Amended Project Area pursuant to CCRL Section 33670 after ten (10) years from the termination of the effectiveness of the Amendment. This limitation shall not be applied to limit the allocation of taxes to the Agency to the extent required to implement a replacement housing program pursuant to CCRL Section 33413.

Nothing in this Section shall be construed to affect the validity of any bond, indebtedness or other obligation, including any mitigation agreement entered into pursuant to CCRL Section 33401, authorized by the City Council or the Agency prior to January 1, 1994. Nor shall this Section be construed to affect the right of the Agency to receive property taxes pursuant to CCRL Section 33670 to pay the indebtedness or other obligation.

F. (Sec. 606) Other Loans and Grants

Any other loans, grants, guarantees or financial assistance from the Federal government or any other public or private source will be utilized if available and appropriate in carrying out the Project.

VII. (Sec. 700) ACTIONS BY THE CITY

The City shall aid and cooperate with the Agency in carrying out this Amendment and shall take all actions necessary to ensure the continued fulfillment of the purposes of this Amendment and to prevent the recurrence or spread in the area of conditions causing blight. Action by the City may include, but not be limited to, the following:

- A. Institution and completion of proceedings for opening, closing, vacating, widening, or changing the grades of streets and other public rights-of-way, and for other necessary modifications of the streets, the street layout, and other public rights-of-way in the Amended Project Area. Such action by the City shall include the requirements of abandonment and relocation by the public utility companies of their operations in public rights-of-way as appropriate to carry out this Amendment.
- B. Institution and completion of proceedings necessary for changes and improvements in publicly-owned public utilities within or affecting the Amended Project Area.
- C. Revision of zoning within the Amended Project Area to permit the land uses and development authorized by this Amendment.
- D. Performance of the above, and of all other functions and services relating to

public health, safety, and physical development normally rendered in accordance with a schedule which will permit the redevelopment of the Amended Project Area to be commenced and carried to completion without unnecessary delays.

- E. The undertaking and completing of any other proceedings necessary to carry out the Project.

VIII. (Sec. 800) ADMINISTRATION, ENFORCEMENT AND AMENDMENT OF THE AMENDMENT

- A. The administration and enforcement of this Amendment or other documents implementing this Amendment shall be performed by the Agency or the City, as appropriate. The City Council of the City constitutes the Agency Board.

The provisions of this Amendment or other documents entered into pursuant to this Amendment may also be enforced by court litigation instituted by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry, injunctions, or any other remedies appropriate to the purposes of this Amendment. In addition, any recorded provisions which are expressly for the benefit of owners of property in the Amended Project Area may be enforced by such owners.

- B. This Amendment may be amended by means established in the CCRL or by any other procedure hereinafter established by law. Any amendment to the City General Plan affecting any portion of the Amendment text and/or map of the Amended Project Area shall automatically amend this Amendment accordingly to conform thereto.